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6528th meeting

Wednesday, 4 May 2011, 10 a.m.
New York

President:	Mr. Araud	(France)
Members:	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mrs. Viotti
	China	Mr. Li Baodong
	Colombia	Mr. Osorio
	Gabon	Mr. Messone
	Germany	Mr. Wittig
	India	Mr. Hardeep Singh Puri
	Lebanon	Mr. Salam
	Nigeria	Mr. Amieyeofori
	Portugal	Mr. Cabral
	Russian Federation	Mr. Churkin
	South Africa	Mr. Mashabane
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant
	United States of America	Ms. Rice

Agenda

The situation in Libya

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The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President (*spoke in French*): Under rule 39 of the Council's provisional rules of procedure, I invite Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to participate in this meeting.

I give the floor to Mr. Moreno-Ocampo.

Mr. Moreno-Ocampo: I am honoured to report to the Council on the activities of the Office of the Prosecutor in furtherance of resolution 1970 (2011). The Council adopted resolution 1970 (2011) unanimously on 26 February, referring the situation in Libya to the International Criminal Court (ICC) and stressing the need to hold to account those responsible for attacks, including by forces under their control, on civilians.

My report, submitted for the Council's consideration in advance of this meeting, describes in detail the factual and legal analysis conducted by the Office in order to implement that resolution. Based on that analysis, we decided to open an investigation on 3 March. In carrying out the mandate given it by the Council under resolution 1970 (2011), the Office must apply the norms established by the Rome Statute. It must establish the truth about crimes alleged to have been committed in Libya through an independent and impartial investigation. This is what we are doing.

To investigate the crimes committed in Libya, the Office has conducted more than 15 missions to 10 different States. As of 26 April, 45 interviews of individuals with direct knowledge of the crimes committed had been initiated or completed. More than 569 documents, including videos and pictures, had been collected and reviewed. The Office has taken no statement inside Libya in order to fulfil its duty to protect witnesses.

The cooperation received from States and regional and other international organizations, in accordance with paragraph 5 of resolution 1970 (2011), was a critical component of the fast progress of the Libyan investigation.

The Commission of Inquiry created by the Human Rights Council has also been cooperating with the Office since its creation, and has indicated its willingness to continue to do so. The Commission of Inquiry is in the process of preparing its report to the Human Rights Council, which is to be completed by the end of May. We are looking forward to its report and to having access to the data compiled by the Commission, which will be very useful to the Prosecution for future action. We have discussed with the Commission Chair the difficulties involved in unveiling the truth while an armed conflict is ongoing, and the importance of the Commission's field activities.

The evidence collected has confirmed the fears and concerns expressed in resolution 1970 (2011). Two months ago, the Security Council expressed grave concern at the situation in the Libyan Arab Jamahiriya, condemning the violence and use of force against civilians, and deplored the gross and systematic violation of human rights, including the repression of peaceful demonstrators and the deaths of civilians. Resolution 1970 (2011) rejected unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan Government, and considered that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population could amount to crimes against humanity.

The evidence collected by the Office of the Prosecutor confirms that assessment. It establishes reasonable grounds to believe that widespread and systematic attacks against the civilian population, including murder and persecution as crimes against humanity, have been and continue to be committed in Libya. In additionally, since the end of February there has been an armed conflict in Libya. In this context, there is also relevant information on the alleged commission of war crimes. The work of the Commission of Inquiry will be crucial to fully understanding the crimes committed during the armed conflict.

Let me start by describing the incidents of crimes against humanity that the Office investigated. The evidence shows that security forces have been systematically shooting at peaceful protesters, following the same modus operandi in multiple locations. The evidence shows that events in neighbouring Egypt and Tunisia prompted Libyan

security forces to begin preparations for the possibility of demonstrations in Libya. As early as January, mercenaries were being hired and brought into Libya.

The incidents started on 15 and 16 February. Security forces arrested two lawyers who were requesting justice for the 1,400 victims of the 1996 Abu Salim prison massacres. On 17 February, thousands of peaceful demonstrators protesting these arrests congregated in the square around the High Court of Benghazi. Security forces entered the square and reportedly fired live ammunition into the crowd, killing numerous demonstrators. This was the beginning of a series of similar incidents in different cities across Libya.

The efforts to cover up the crimes have made it difficult to ascertain the precise number of victims, but there is credible information suggesting that, merely as the result of such shootings, 500 to 700 persons died in February alone. It is difficult to estimate the total numbers because dead bodies were removed from streets and hospitals. Doctors were not allowed to document the number of dead and injured admitted to hospitals after the violent clashes began. Security forces were allegedly stationed in the hospitals and arrested injured individuals who sought medical treatment. Being injured became evidence of opposing the regime, and challenging the authority of the regime is a crime under Libyan law. To avoid punishment and risk of death, many protestors sought medical attention in private homes and did not bring injured or dead persons to the hospitals.

In addition to such incidents, information collected by the Office shows that civilians in Tripoli and other areas under the control of the regime are reportedly subject to different forms of persecution. Systematic arrests, torture, killings and enforced disappearances have been reported in Tripoli, Zawiyah, Zintan and the area of the Nafusa Mountains. The victims are civilians who have participated in demonstrations, are considered to be disloyal to the regime, or have talked to international media, activists or journalists. In addition, citizens of Egypt and Tunisia were arrested and expelled en masse because of their perceived association with the popular uprising. The mosques where they prayed were destroyed.

There is also relevant information concerning the alleged commission of rape. Victims of rape have reportedly been arrested and subject to harassment. In one high-profile case, a woman gave a report to the international media of how she had been raped by security forces because of her suspected association with the rebels. The Office is investigating these allegations.

Several sources have also reported the unlawful arrest, mistreatment and killing of sub-Saharan African civilians wrongly perceived to be mercenaries. Reportedly, angry mobs of protesters assaulted sub-Saharan Africans in Benghazi and other cities and killed dozens of them. The new authorities in Benghazi allegedly arrested a number of sub-Saharan Africans, and it is unclear whether they were innocent immigrant workers or combatants, become prisoners of war.

In addition, specific allegations of war crimes committed include the use of imprecise weaponry such as cluster munitions, multiple rocket launchers and mortars, and other forms of heavy weaponry, in crowded urban areas, in particular Misrata. There are also reports of forces blocking humanitarian supplies. Some sources have also reported the use of civilians as human shields and the torture of prisoners of war or civilians in the context of the armed conflict.

The total number of persons who have died since the beginning of the conflict is in the thousands. The number of those displaced, according to the United Nations, includes approximately 535,000 migrant workers, refugees and asylum seekers, and 327,342 internally displaced Libyans.

Ms. Navi Pillay, United Nations High Commissioner for Human Rights; Ms. Radhika Coomaraswamy Special Representative of the Secretary-General for Children and Armed Conflict; and Ms. Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict, have all spoken clearly about alleged crimes.

Let me conclude by referring to the next steps. In accordance with the Court's Statute, my duty is to focus investigations and prosecutions on those who bear the greatest responsibility for the most serious crimes, based on the evidence that emerges in the course of the investigation. That includes those who ordered, incited, financed or otherwise planned the commission of the alleged crimes.

On that basis, in the coming weeks, in implementing the mandate established by resolution 1970 (2011), as Prosecutor I will present a case before

the Pre-Trial Chamber of the International Criminal Court. I will request the judges to issue arrest warrants against three individuals who appear to bear the greatest criminal responsibility for crimes against humanity committed in the territory of Libya since 15 February.

In all the incidents to be presented to the judges, the victims who were shot at by security forces were unarmed civilians and there is no evidence of any attack against security forces. To prove the case, my Office has collected different types of evidence. There are least two eyewitnesses for each incident, documents and, in many cases, corroboration of details by pictures or videos. Further cases will be opened as necessary, taking into account the full scope of criminality, including war crimes allegedly committed by different individuals in the context of the Libya situation. Before proceeding, I will inform the Council in advance.

Following my request, the Pre-Trial Chamber may decide to accept the application, to reject it or to ask my Office for additional information. Should the judges decide to issue arrest warrants, the primary responsibility to execute them will lie with the territorial authorities.

My Office still awaits any response on the question of arrests from representatives of the regime in Tripoli.

The Interim National Council has committed itself to implement any arrest warrants and has requested the cooperation of the international community.

Arresting those who ordered the commission of crimes will contribute to the protection of civilians in Libya. If those who ordered crimes are not stopped and arrested, crimes will continue unabated. Judicial activity will deter crimes by removing those who ordered the crimes and by sending a clear message to other potential perpetrators, in Libya and elsewhere, that the international community will not condone such crimes.

Arrests cannot be successfully conducted without serious planning and preparation, which takes time. The international community should take steps now to assist with such practical planning.

As Secretary-General Ban Ki-moon stated in Kampala,

> "Now we have the International Criminal Court — permanent, increasingly powerful, casting a long shadow. There is no going back. In this new age of accountability, those who commit the worst of human crimes will be held responsible."

The President (*spoke in French*): I thank Prosecutor Moreno-Ocampo for his briefing.

I shall now give the floor to the members of the Council.

Sir Mark Lyall Grant (United Kingdom): I would like to thank the Prosecutor for his report and briefing this morning. I would also like to take this opportunity once again to commend him and his staff for their tireless efforts to bring justice to the victims of international crimes. The serious risks they take in the cause of international justice were brought home recently by the death of Alain Lubamba Kongolo, a member of the Office of the Prosecutor who died in a plane crash while pursuing investigations in the Democratic Republic of the Congo. Our condolences go to his family and colleagues.

We have heard this morning about Libya and the actions of the Al-Qadhafi regime in attacking civilians. When the Security Council adopted resolution 1970 (2011) (see S/PV.6491), it stressed the need to hold to account those responsible for attacks on civilians. We are grateful to the Prosecutor for the swift action he has taken to implement resolution 1970 (2011). The report he has presented describes a situation that demands such decisive action. To quote from his report: "the shooting at ... protesters was systematic"; "War crimes ... [were] committed as a matter of policy"; many hundreds, or thousands, of protesters have died; and "massive crimes are reportedly committed upon instruction of a few persons who control the organizations that execute the orders".

Despite repeated promises of a ceasefire from the regime, we continue to see appalling attacks and excessive use of force. Last week, as the Libyan Deputy Foreign Minister announced a withdrawal from Misrata, we saw intensified rocket attacks, with hundreds of rockets landing in civilian areas over the following three days. Together with disruptions to the water and electricity supplies, this is conduct that demonstrates an ongoing campaign to target civilians in Misrata. Similar attacks have occurred in other cities.

Others, including the High Commissioner for Human Rights, have highlighted the deliberate targeting of medical facilities and civilians, the use of children as combatants, the denial of humanitarian access and the use of sexual violence as a weapon.

Given those indications of dreadful criminal acts, we as the international community must continue to support the Prosecutor in thoroughly investigating these allegations and holding those responsible to account.

The United Kingdom will continue to assist the Prosecutor's investigations wherever possible. All United Nations Member States, whether parties to the Rome Statute or not, should do the same.

Those holding power in Libya must fulfil their obligations under resolution 1970 (2011) to cooperate with the International Criminal Court and to swiftly hand over any individual who may be indicted.

We welcome the cooperation that the Interim Transitional National Council has given to the investigation so far, and encourage it to continue.

As a State party to the International Criminal Court, and therefore subject to its jurisdiction, the United Kingdom strongly supports the Court's mandate to fight impunity, in Libya and elsewhere.

The deteriorating situation in Syria is of increasing concern in that regard. The violent repression there must stop immediately. The Syrian Government has a responsibility to protect peaceful protesters, not to attack them. Those responsible for this violence should be held to account. There can be no impunity. We strongly support the Secretary-General's call for an independent, transparent and effective investigation into the killings. We must be prepared to consider the appropriate avenues, including the International Criminal Court, to bring justice to the victims of these crimes. But it is not too late for the Syrian Government to decide against more violent oppression and bring about the radical reforms necessary for peace and stability.

Mr. Wittig (Germany) (*spoke in French*): I should like at the outset to thank Ambassador Osorio for his outstanding work as President of the Council for the month of April and to congratulate you, Sir, on your assumption of the presidency for the month of May. I will speak in French, in a tribute both to you and to the French language.

I should like to thank the Prosecutor of the International Criminal Court, Mr. Moreno-Ocampo, for his briefing and for the information that he provided on developments in connection with his investigation in Libya. We are aware of the heavy responsibility falling to the Prosecutor, as an independent organ within the International Criminal Court, with respect to the carrying out of the investigation in Libya.

Germany strongly supports the work of the Court in Libya. I should like to take this opportunity to thank the Prosecutor and his team for having swiftly opened an investigation. The perpetrators of crimes against international law in Libya must be made to answer for their actions as soon as possible, and justice must be done for the victims.

In unanimously adopting resolution 1970 (2011) and deciding to refer the situation in Libya to the International Criminal Court, the Security Council was far-sighted. The resolution focuses on the protection of civilians; each State is responsible for protecting its people against the most serious crimes. That is the second message implicit in resolution 1970 (2011). Its importance is not limited to Libya but goes beyond that country.

Violence must end as soon as possible in Libya and a solid ceasefire must be reached in order to allow for a redoubling of efforts in the quest to achieve a political solution. The Doha and Cairo meetings contributed to a large extent to giving concrete expression to the objectives that the international community is pursuing beyond military action.

We deem it important to involve all interested parties in a political process, in particular the protagonists in the region. The Al-Qadhafi regime gambled with its legitimacy and lost. It must yield to a Government born of the will of the people, one that will endeavour to bring democracy and openness to Libya. That will also require a process of reconciliation in the country as well as a systematic clarification of the acts of injustice that have been committed. Hence Germany welcomes the fact that the investigation of the situation in Libya is being carried out not only with determination but also with the requisite caution, in particular with respect to the protection of witnesses. The initial swift progress that has been made in the investigation, which the Prosecutor has told us about, is encouraging. We deem it of the highest importance that justice be done as quickly as possible for the

victims of the conflict in Libya and that those who bear specific and serious responsibility for any crimes against humanity or other serious crimes under the Rome Statute answer for their actions. Those who are continuing to commit serious crimes in Libya must know one thing: the Security Council and the International Criminal Court, together if necessary or separately, will ensure, within their respective spheres of competence, that crimes against international law shall not go unpunished.

Cooperation on the part of the international community with the International Criminal Court is essential in order to shed as much light as possible on the serious crimes alleged to have been committed in Libya. Germany welcomes the high level of cooperation with the Prosecutor that many States and organizations have already displayed. However, the primary responsibility in that respect falls on the Libyan authorities. We urge them to respect the commitments incumbent upon them pursuant to resolution 1970 (2011) and to cooperate swiftly and fully with the International Criminal Court and the Prosecutor. The Libyan authorities must allow the Prosecutor to commence an investigation on Libyan territory as soon as possible.

We are extremely concerned at the suffering that is still being inflicted on the civilian population of Libya. Serious violations of human rights and international humanitarian law remain the order of the day. We are deeply concerned at the instances of rape and torture as well as the use of cluster weapons and heavy weapons against the civilian population, as described by the Prosecutor in his report. We condemn in the strongest terms the continuation of the violence and urge all the parties to the conflict to put an end to those crimes and to respect human rights and international humanitarian law.

The efforts deployed by the United Nations, in particular by the Office for the Coordination of Humanitarian Affairs, to relieve humanitarian suffering and coordinate humanitarian aid are exemplary and welcome. However, the situation in Misrata in particular remains of concern. Germany recently made available substantial funds for the delivery of humanitarian aid to Misrata. My country has already provided considerable humanitarian aid to the civilian population affected by the crisis in Libya, and we stand ready to continue to provide assistance.

The President (*spoke in French*): I thank the representative of Germany for his very clear statement.

Mr. Cabral (Portugal) (*spoke in French*): I, too, should like to take this opportunity to congratulate you, Sir, on your assumption of the presidency of the Council for the month of May and to express gratitude to the delegation of Colombia and to Ambassador Osorio for their outstanding work during the month of April. Unfortunately, my statement was prepared in English, so I will speak in English.

(*spoke in English*)

I wish to thank the Prosecutor of the International Criminal Court (ICC), Mr. Moreno-Ocampo, for his report and for his comprehensive and informative briefing today. I wish also to commend him and all his staff for the significant investigative work he was able to carry out in such a short period of time, under difficult circumstances.

We are very troubled by the humanitarian situation in Libya, with persistent violence against civilians and serious violations of international humanitarian law. We wish to express our serious concern at the information on crimes against humanitarian, further acts of violence and continuation of war crimes, as described in the Prosecutor's report and highlighted here today by Mr. Moreno-Ocampo.

We are also disturbed at recent statements by the United Nations High Commissioner for Human Rights, the Special Representative of the Secretary-General for Children and Armed Conflict and the Special Representative of the Secretary-General on Sexual Violence in Conflict pertaining to serious violations of international human rights and humanitarian law, widely echoed in the international press.

Under these circumstances, a political solution is becoming all the more pressing. In that sense, it is indispensable to reach a ceasefire that is both verifiable and sustainable. We thus commend and fully support the role and the endeavours of Special Envoy Al-Khatib in reaching an agreement on a ceasefire and on the launching of an inclusive political process.

However, we cannot forget the importance of justice as a fundamental value of human society and as an inherent part of the process to achieve a sustainable peace and bring confidence to the affected communities victimized by the persistent violence.

The International Criminal Court has an important role to play in this regard not only in investigating the most serious crimes and in judging and punishing the perpetrators most responsible, but also in preventing the escalation of violence as a dissuasive instrument for potential perpetrators and sometimes the only source of hope for endangered civilians and communities in conflict zones. We therefore express our full support for the continuation of the efforts made in the context of the investigation and commend the support provided to the Prosecution by States and organizations in these endeavours. Cooperation with the Prosecutor and the Court is essential to the success of the criminal investigations and judicial proceedings.

We also wish to highlight the importance of the protection of victims and witnesses, and commend the prosecution for exercising the utmost caution in this phase in order to avoid putting at risk persons and humanitarian personnel who have given testimony.

We see an important role in this context for the United Nations International Commission of Inquiry established by the Human Rights Council, which recently started its investigation in Libya, and we welcome the Prosecutor's intention to liaise closely with it. However, we are worried about the impact of the work of the Commission on the situation on the ground. We hope that the Commission can conclude its work soon.

Finally, we would like to seize this opportunity to express Portugal's support for the ICC and its fundamental role in fighting impunity and promoting peace and security.

Mr. Hardeep Singh Puri (India): I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Luis Moreno-Ocampo, for his briefing today. I have also taken note of his report to the Security Council submitted pursuant to paragraph 7 of resolution 1970 (2011).

India, as members know, is not a signatory to the Rome Statute or a member of the International Criminal Court, for reasons that are well known. In our explanation of vote on resolution 1970 (2011) on 26 February (see S/PV.6491), I noted that of the 192 States Members of the United Nations only 114 are members of the ICC. Five of the 15 members of the Security Council, including three permanent members, are not parties to the Rome Statute. But we voted in favour of resolution 1970 (2011) because several members of the Council, including our colleagues from Africa and the Middle East, believed that the referral of the situation in Libya to the ICC would have the effect of causing the immediate cessation of violence and the restoration of calm and stability.

Unfortunately, the situation in Libya has continued to deteriorate, and widespread violence continues. We remain seriously concerned at the developments in Libya and condemn the use of force against civilians. We reiterate our call on all parties to immediately cease attacks on civilians and engage in political dialogue to resolve the crisis. The longer the conflict continues, the greater the harm caused to the Libyan people, their economy and society.

We have noted that, after his preliminary investigation, the Prosecutor, on the basis of available information, has decided that are reasonable grounds to believe that crimes against humanity and war crimes have been committed and continue to be committed in Libya. We have also noted that the Office of the Prosecutor will submit its first application for an arrest warrant to a pre-trial chamber in the coming weeks.

The Prosecutor should carry out a thorough and impartial investigation and not be influenced by any non-judicial considerations. All those responsible for committing crimes covered under the Rome Statute should be held accountable, irrespective of which side of the conflict they may belong to and even if they have changed sides. Political considerations should not exonerate anyone from prosecution for crimes committed. Any action by the ICC should fall strictly within the ambit of resolution 1970 (2011), particularly paragraph 6, which concerns States that are not parties to the Rome Statute.

Mr. Messone (Gabon) (*spoke in French*): We wish to thank Prosecutor Moreno-Ocampo for his initial report pursuant to paragraph 7 of resolution 1970 (2011). My delegation read the report with great interest and appreciates its concision, the quality of its analyses and the clear conclusions it reaches on the three main criteria for determining the Court's competence to investigate and prosecute the perpetrators of the crimes committed in Libya since 15 February.

We note the difficulties involved in any investigation in a conflict situation. We reaffirm Gabon's commitment to combating all forms of

impunity. That is a position of principle to which we remain devoted and is the basis of our accession to the Rome Statute. We are also attached to the fundamental principles of the protection of civilians, international humanitarian law and international human rights law.

We recall our serious concern over the situation prevailing in Libya. We support all Security Council decisions to put an end to the violence in the country. We therefore call on all parties to the conflict to cease fire immediately. We urge once again that all means be deployed to reach a political solution to the conflict.

That said, Gabon believes that the spirit and letter of all resolutions adopted by the Security Council must be observed. Their implementation must fully cover criminal acts by whomsoever committed in this crisis. The political efforts under way must not affect the requirements of justice regarding crimes committed against humanity. We therefore urge the Libyan Government to cooperate and refrain from hampering the investigations under way.

We affirm the need for the Security Council to support all efforts to shed light on the crimes committed throughout Libya, including against foreign migrant workers, including those from sub-Saharan Africa. We deplore the attacks on civilians who are peacefully protesting to express their desires for a free and democratic Libya.

We also stress the need for the Prosecutor to have all the means necessary to carry out an impartial investigation. My delegation therefore welcomes the close cooperation between the Prosecutor and the International Commission of Inquiry set up by the Human Rights Council at its special session of 25 February.

Gabon assures the Prosecutor of its full willingness to cooperate with him in his efforts to fully achieve his objective. We encourage and urge all parties to the conflict in Libya to cooperate unconditionally with the International Criminal Court in this process in order to shed light on the nature of crimes so that perpetrators can be brought to justice.

In conclusion, we wish to emphasize that the way in which this matter is addressed and the conclusions reached will, in our view, contribute to bolstering efforts to put an end to impunity and to reasserting the authority and impartiality of the Court in this crisis.

Mrs. Viotti (Brazil): I thank Prosecutor Moreno-Ocampo for his briefing and for the first report of the International Criminal Court (ICC) pursuant to resolution 1970 (2011). We are concerned at the continuation of hostilities in Libya. An immediate ceasefire and the establishment of an inclusive political process that can address the aspirations of the Libyan population and bring about durable peace in Libya are more urgent than ever.

Brazil is deeply concerned by the ongoing violence and the use of force against civilians. We are troubled by the reports of killings of civilians, unlawful arrests, torture, forced disappearances and rape. The referral of the Libyan case to the ICC, mandated by resolution 1970 (2011), underscores the concerns of the international community at the aggression committed against the civilian population in Libya. Those in control of military capabilities, and their subordinates, must cease all violence against civilians.

As developments in Libya unfold, we hope that the ICC investigations can have an impact on the desired goals — a cease to violence and the restoration of calm. In the post-conflict stage, the ICC's role will continue to be essential in helping to ensure accountability and justice, which are so important to achieving durable peace.

In order for the ICC to help achieve these vital objectives, the ongoing investigations leading to possible future proceedings must be thorough, transparent and impartial. We urge all parties to the conflict to fully cooperate with the ICC.

Mr. Churkin (Russian Federation) (*spoke in Russian*): We thank Mr. Moreno-Ocampo for presenting his initial considerations about prospects for an investigation into the situation in Libya and for briefing us on the work carried out by his Office pursuant to resolution 1970 (2011). The Council adopted that resolution unanimously based on its serious concern at the widespread use of violence against participants in peaceful demonstrations in Libya, which led to casualties among the civilian population.

What the Prosecutor has said today is encouraging. We have, with deep regret, heard information about the escalation of violence in Libya. It is clear that violence can be effectively halted only by the implementation of the measures called for in

resolution 1973 (2011), namely, an immediate ceasefire and the necessary efforts for a political settlement.

We are deeply alarmed by the growing number of civilian casualties and the destruction of civilian facilities as a result of the actions by opposing Libyan parties, in particular as a result of the use of indiscriminate weapons.

Unfortunately, it must be noted that actions by the NATO-led coalition forces are also resulting in civilian casualties, as was seen in particular during recent bombings in Tripoli. We emphasize once again that any use of force by the coalition in Libya should be carried out in strict compliance with resolution 1973 (2011). Any act going beyond the mandate established by that resolution in any way or any disproportionate use of force is unacceptable.

We support the efforts by the International Criminal Court to carry out a fair and impartial investigation into the actions of all parties to the conflict in Libya and to bring to justice individuals involved in possible crimes against humanity and serious violations of international humanitarian law in Libya.

Mr. Osorio (Colombia) (*spoke in Spanish*): At the outset, allow me to thank Prosecutor Luis Moreno-Ocampo for his presence at this meeting and for his valuable, precise and detailed briefing to the Security Council on the activities carried out by his Office pursuant to the relevant section of resolution 1970 (2011).

The drafters of the Statue of the Court, among whom Colombia is pleased to count itself, were aware that the new judicial body being created could not operate in a vacuum and that, in certain circumstances, the task of maintaining international peace and security could overlap with the implementation of the principle of international criminal responsibility and the need to bring to justice those responsible for serious crimes of an international nature. That is why the Statute grants the Security Council the right to refer a situation to the Court in which one or more crimes under its jurisdiction are alleged to have been committed.

In resolution 1970 (2011), the Council reaffirmed several important concepts that are relevant to today's debate, including a determination that the widespread and systematic attacks carried out against the civilian population in Libya may constitute crimes against humanity. The investigation has uncovered evidence of systematic armed repression resulting in hundreds of victims, illegal arrests, torture and sexual violence. The Council also stressed that all those responsible for, or complicit in, attacks against the civilian population, including aerial and naval attacks, must face the consequences of their actions.

My Government believes that much of the added value of the Security Council as the body bearing the primary responsibility for the maintenance of international peace and security lies in its credibility, which is necessarily dependent on the effective implementation of its decisions. In this context, we believe that the work being carried out by the International Criminal Court with regard to the situation in Libya is of the utmost importance for ensuring the full and effective implementation of resolution 1970 (2011), and thus deserves our full support. We are here owing to a decision adopted by the Council under Article 40 of the Charter, which clearly is binding in nature vis-à-vis all States Members of the Organization.

I wish to emphasize that the report provided to the Council last week and the additional information provided today by Prosecutor Moreno-Ocampo show that the Court and the Prosecutor's Office have been particularly diligent with regard to the practical implementation of resolution 1970 (2011).

Respect for international law, international humanitarian law and human rights provide the basic channels for consolidating democratic societies governed by the rule of law — societies acting within a system guided by the purposes and principles of the Charter of the United Nations and the standards of international law.

Mr. Li Baodong (China) (*spoke in Chinese*): I, too, would like to thank Mr. Moreno-Ocampo for his briefing.

The Chinese position on the International Criminal Court remains unchanged. We attach great importance to combating impunity and achieving justice. China has always believed that the pursuit of justice should be premised on the core values of safeguarding peace and security and maintaining international peace and harmony.

At present, the crisis in Libya shows no signs of abating, and efforts to end it have reached a stalemate.

At the same time, the humanitarian situation continues to deteriorate and the civilian population continues to suffer grave consequences. China expresses its serious concern in this regard.

China calls for the complete and strict implementation of the relevant resolutions of the Security Council. The international community must respect the sovereignty, independence, unity and territorial integrity of Libya. The internal affairs and fate of Libya must be left up to the Libyan people to decide. We are not in favour of any arbitrary interpretation of the Council's resolutions or of any actions going beyond those mandated by the Council.

China believes that the priority for the time being must be to achieve a complete and unconditional ceasefire, as called for by the Council, and to establish a ceasefire monitoring system under the auspices of the United Nations.

Peaceful dialogue and negotiations are the best way forward towards a political solution to this crisis. We endorse the efforts made by all interested parties, especially the African Union. We endorse the five-point road map proposed by the African Union.

The United Nations and the Security Council must play a leading role in properly resolving the Libyan crisis. We would like to see the Special Envoy of the Secretary-General, Mr. Al-Khatib, playing a stronger role on the political track. At the same time, we would like to ensure that the International Criminal Court properly assesses the requirements to resolve in crisis in Libya appropriately in its efforts to implement resolution 1970 (2011) and to play a positive and constructive role in promptly restoring peace, security and order in Libya.

Mr. Amieyeofori (Nigeria): I would like to thank you, Mr. President, for convening this important meeting to consider the work of the International Criminal Court (ICC) in relation to the situation in Libya. We are also indebted to Mr. Moreno-Ocampo, Chief Prosecutor of the ICC, for his insightful briefing.

The fight for justice and the battle against impunity are at the heart of the values shared by most Member States, including those committed to the aims and objectives of the ICC. As a State party to the Rome Statute, Nigeria reaffirms its support for the work of the ICC in ensuring accountability for the most serious crimes of international concern. The situation in Libya presents an immediate test not only for the ICC as an indispensable tool in our collective conflict resolution efforts, but also for our collective determination to maintain international peace and security. Indeed, the very first Article of the United Nations Charter charges us to take effective collective measures for the prevention and removal of threats to peace and to achieve peace through pacific means.

In that respect, we welcome the Chief Prosecutor's first report to the Security Council. The report shows a measured, logical and comprehensive approach to the conduct of preliminary examination of allegations of human rights violations in Libya and the subsequent launching of an investigation, in accordance with resolution 1970 (2011). The initial factual analysis, in line with the thresholds of admissibility, gravity and jurisdiction, provides us with a better understanding of the nature and extent of the violations that the people of Libya have endured and continue to endure.

The prima facie evidence of crimes against humanity makes the case for an ICC investigation even stronger and demonstrates that such a step is necessary to satisfy the interests of justice. In addition, the systematic nature of the attacks on civilians, the routine use of imprecise weaponry and the evidence of attempts to conceal crimes warrant rigorous investigation to establish criminal responsibility.

However, the political situation in Libya is complex and the security environment fragile and mutable. In resolving the Libyan crisis, resolutions 1970 (2011) and 1973 (2011) must be read and implemented together. The resolutions are complementary and mutually reinforcing. Indeed, they are anchored in the desire for a peaceful and politically based solution to the Libyan conflict. That is why the efforts of interlocutors, such as the Special Envoy of the Secretary-General, Mr. Al-Khatib, the Libya Contact Group and the African Union Ad Hoc High-Level Committee on Libya are recognized. All such activities are central to facilitating dialogue between the parties with a view to cementing a lasting peace.

For those reasons, it is important that the activities of the Prosecutor be carefully calibrated to support the ongoing political efforts to find a peaceful solution. Ignoring that pivotal dimension may threaten the prospects for peace not just for Libya, but also for the region at large. Thus, it is essential that justice be

pursued in a manner that does not jeopardize efforts aimed at promoting lasting peace and stability in the country.

That observation underscores the need for the prosecuting team to uphold high standards of evidence and to remain impartial in the face of compelling and disturbing evidence. In that regard, I would highlight the fate of those sub-Saharan Africans detained by the authorities in Benghazi and stress the need to ensure that their cases are handled according to due process.

We must not underestimate the heavy responsibility that the Prosecutor bears in that regard. It is difficult to see how the interests of justice can be served without the cooperation of the international community. As is clear from the report, the Prosecutor's work thus far has benefited from international cooperation, which must be encouraged to continue. It is our firm belief that the ICC's involvement should further our collective efforts to achieve lasting peace in Libya and to see the aspirations of the Libyan people realized.

Mr. Mashabane (South Africa): I thank you, Mr. President, for calling this meeting and for providing us with an opportunity to interact with the Prosecutor of the International Criminal Court (ICC) on the situation in Libya. I also wish to thank the Prosecutor, Mr. Moreno-Ocampo, for his briefing to the Security Council. We are particularly impressed by the speed with which the investigations were completed.

Our delegation not only supported resolution 1970 (2011), but indeed co-sponsored it. Our support for referral to the ICC was based, inter alia, on South Africa's support of the international community's fight against impunity and the concern that we had voiced over the escalation of violence in Libya. As a State party to the Rome Statute, South Africa will continue to support the Prosecutor in relation to the conflict in Libya. As we stated in our statements during the adoptions of resolutions 1970 (2011) and 1973 (2011) (see S/PV.6491 and S/PV.6498), South Africa has been and remains concerned about the crimes against civilians and the human rights violations committed in the context of the conflict in Libya.

As a starting point, we note that the standard of proof for the decision to initiate an investigation is far lower than that required for a successful prosecution. Therefore, we encourage the Prosecutor to leave no stone unturned in the search for further evidence to strengthen the cases against those who may have committed atrocities. We hope that the Prosecutor will look at all atrocities committed on either side of the conflict.

As the report of the Prosecutor notes, the current situation in Libya now amounts to an armed conflict. Crimes may have been committed by Government and opposition forces alike. To protect the Court's integrity and to ensure that all who were caught in the crossfire of the conflict are protected, all crimes, regardless of the perpetrators, should be considered. Of course, such a statement is without prejudice to the Prosecutor's determination of who bears the greatest responsibility for the most serious crimes.

Finally, a number of delegations have asked questions about the implementation of resolution 1970 (2011). In particular, questions have been asked about whether the actions of the implementing States have been consistent with the letter and the spirit of resolution 1970 (2011). We are aware that paragraph 6 of the resolution establishes a caveat designed to exclude the jurisdiction of the Court in such cases. Nonetheless, we would recall that the caveat in paragraph 6 is limited to actions established or authorized by the Security Council. Therefore, any actions that fall outside the scope of resolution 1973 (2011) should not benefit from the protection offered by the caveat. It is our sincere hope that, in considering the evidence, the Office of the Prosecutor will also consider any actions that may have been committed in the purported implementation of resolution 1973 (2011).

Let me conclude by assuring the Prosecutor that South Africa will continue to cooperate with the activities of the ICC. We look forward to hearing from the Prosecutor in the next six months and hope that, by then, the ICC will have issued indictments against those most responsible for the atrocities committed in Libya. We are pleased that the Council intends soon to present a case to the ICC, seeking arrest warrants against three individuals. We hope that, in time, the net will be cast even wider.

Ms. Rice (United States of America): Let me begin by thanking the Prosecutor for his very important and very informative briefing.

In resolution 1970 (2011), this Council unanimously decided to refer the situation in Libya to the Prosecutor of the International Criminal Court

(ICC). By doing so, the Council reflected the importance that the international community attaches to ensuring that those responsible for the widespread and systematic attacks against the Libyan people are held accountable.

The Prosecutor has highlighted the deeply troubling actions of the Libyan Government and its security forces, including incidents in which Al-Qadhafi forces fired on civilians, reports of torture, rape, deportations, enforced disappearances, the use of cluster munitions and heavy weaponry against targets in crowded urban areas, and the blocking of humanitarian supplies. All of that underscores the gravity of what we are witnessing in Libya today.

New reports make clear that the Al-Qadhafi regime continues to directly target civilians, so the need for justice and accountability persists. Those reports further underscore the message, which we have repeated in our statements and in our diplomatic efforts, that Al-Qadhafi has lost any and all legitimacy to lead Libya.

As the ICC process continues, it is important that the international community remain united in its commitment to protecting civilians and civilian-populated areas under the threat of attack, to ending violence against the Libyan people, and to defending the universal rights that all of us share.

My Government welcomes the swift and thorough work of the Prosecutor. He has said that he plans to submit an application for an arrest warrant in the coming weeks. The spectre of ICC prosecution is serious and imminent, and should serve as a warning to those around Al-Qadhafi of the perils of continuing to tie their fate to his. The Prosecutor has also indicated that further cases may be opened, as would be appropriate against individuals involved in further crimes that may be committed in the days ahead.

Tomorrow, members of the international community will gather in Rome to examine ways of supporting a political process that will advance the rights and aspirations of the Libyan people. Several proposals have been put forward to resolve the crisis. We continue to discuss those and other potential solutions with our allies and partners, including United Nations Special Envoy Al-Khatib.

We believe in the potential of the Libyan people. We believe that they deserve leaders who share and support their aspirations to freedom, democracy and dignity. Through his brutal oppression, Al-Qadhafi has demonstrated time and again that he is not interested in a Libya that honours his people's hopes and rights.

Mr. Salam (Lebanon) (*spoke in Arabic*): At the outset, I would like to express my gratitude to Prosecutor Luis Moreno-Ocampo for his briefing. We highly appreciate his efforts and those of his Office, which contribute to the protection of Libyan civilians and the implementation of the rule of law.

Lebanon recalls that, on 22 February, in a special emergency meeting, the Council of the League of Arab States condemned the acts committed against Libyan citizens as constituting grave violations of human rights and international humanitarian law. We also recall the letter dated 26 February from the Permanent Representative of Libya to the United Nations, in which he requested that those responsible for killing Libyan civilians be held accountable to the International Criminal Court (ICC).

Lebanon is deeply concerned over the deteriorating situation in Libya and the ongoing behaviour of the discredited and delegitimized Libyan regime, especially in Misrata, Zintan and elsewhere. The regime is also involved in the use of heavy weapons and cluster bombs against civilians. We were even more alarmed by what we heard recently from Ms. Navi Pillay, United Nations High Commissioner for Human Rights.

Lebanon welcomes the report on the activities of the Office of the Prosecutor over the past two months concerning the situation in Libya. We commend the cooperation of Member and non-Member States, as well as other organizations, as mentioned in the report. That cooperation, extended in response to Security Council resolution 1970 (2011), sends a clear message from the international community concerning the protection of Libyan citizens from the violations to which they have been subject since 15 February.

Lebanon also commends the work of the Office of the Prosecutor in protecting witnesses and ensuring that their contributions and revelations of fact do not place their lives in danger. The conduct of the Office has been characterized by a high level of professional responsibility.

Lebanon emphasizes the importance of holding accountable those responsible for horrific crimes

against the Libyan people, who are eager to win their freedom. We also believe that the success of the ICC in those efforts will act as a deterrent in the future and serve as a tool to end the era of impunity in Libya. Here, we commend the Prosecutor's comments on the imminent issuance of arrest warrants.

In conclusion, Lebanon looks forward to justice that will help to lessen the frustration and grief of the families of the martyrs in Libya, reduce the suffering of the injured and tortured, return internally displaced persons and refugees to their homes, and restore peace and security in Libya.

Mr. Barbalić (Bosnia and Herzegovina): Allow me to welcome the Prosecutor of the International Criminal Court to today's meeting and thank him for his extensive briefing. I also wish to thank the Prosecutor for preparing the report that has given us a further overview of and insight into the situation in the field. In no uncertain terms, it outlines the rather grave and serious situation, providing facts that unfortunately have been confirmed from briefing to briefing.

Unfortunately, the report of the Prosecutor of the International Criminal Court (ICC) provides further evidence of serious and constant violations of international humanitarian law and human rights law and of the deterioration of the situation, including systematic violence against the civilian population. We strongly condemn such violence and find it to be unacceptable.

Bosnia and Herzegovina is gravely concerned by the reported crimes and the manner in which they have been committed, which have only further reinforced our conviction that the referral of the situation in Libya to the ICC was true to our commitments and obligations.

After only two months of investigation, the report of the Prosecutor already contains evidence of incidents constituting alleged war crimes and crimes against humanity. We firmly believe that addressing these crimes and punishing those responsible is, beyond any doubt, the main precondition for reconciliation, sustainable and long-lasting peace and stability. Impunity is not an option, and I am certain that all of us agree on that.

For those precise reasons, and on the basis of our own strong and unwavering belief in the justice system, we believe that the full implementation of resolutions 1970 (2011) and 1973 (2011) is of utmost importance. Obligations derived from those resolutions are not optional.

Finally, it is our firm belief that condemnation of the grave atrocities and crimes under the Court's jurisdiction is unanimous and unwavering. My country remains committed to the ideas and goals of the ICC, and to its own obligations. Furthermore, the Prosecutor of the ICC has our full support for his work.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of France.

I thank Prosecutor Moreno-Ocampo for his report and his briefing. When a Government attacks civilian populations instead of protecting them; when the atrocities committed sear the human conscience; and when the stability of an entire region is affected, the international community has a responsibility to intervene and to protect civilians. That is what we done in Libya.

Since mid-February, faced with the atrocities committed by Libyan leaders, the Arab League, the African Union and the Secretary General of the Organization of the Islamic Conference have condemned the grave violations of human rights and international humanitarian law. The Security Council also reacted quickly, by unanimously adopting, on 26 February, resolution 1970 (2011), which referred the situation in Libya to the Prosecutor of the International Criminal Court.

In his report, the Prosecutor confirms the fears expressed by the Council. Attacks by security forces against peaceful demonstrators were, as of 17 February, systematic and widespread. Civilians suspected of being associated with demonstrations were arbitrarily detained, abducted and tortured.

The Prosecutor also lists the war crimes committed in the context of the armed conflict. In Misrata and elsewhere, it is not military targets that are the priority targets, but rather the civilian population — through the use of fragmentation shells and snipers, attacks against hospitals and the mining of ports to hinder the evacuation of civilians. The Prosecutor also indicated that he will examine any allegation of attacks against African migrants.

By referring the situation in Libya to the International Criminal Court, we took an important

decision and we took it unanimously. It was an informed decision aimed at ensuring that those mainly responsible for these crimes were prosecuted, judged and imprisoned. The judicial process is under way and must run its course.

As the Prosecutor explained, the International Criminal Court will prosecute only the leading perpetrators: those who organized, ordered or financed crimes. There is still time for those who were misled into becoming involved in the criminal campaign led by Al-Qadhafi against innocent civilians to dissociate themselves from it. There can be no political or other kind of solidarity with those who order or commit such crimes.

France welcomes the fact that, in accordance with resolution 1970 (2011), States and regional organizations have offered their full cooperation to the Prosecutor, thus enabling his investigation to make rapid progress. In the future, whatever the decisions taken by the judges, the Council, united and determined, will have to support them.

I now resume my functions as President of the Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 11.25 a.m.